

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

LAMOUNT AUSTIN,

Plaintiff,

v.

No. 16cv58 KG/LF

EVERBANK, et al.,

Defendants.

ORDER OF DISMISSAL

THIS MATTER comes before the Court on Plaintiff's failure to comply with the Court's Order to Cure Deficiency, Doc. 5, filed January 27, 2016. For the reasons stated below, the Court will **DENY** Plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form), Doc. 2, filed January 26, 2016, and **DISMISS** this case **without prejudice**.

Plaintiff filed an Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form). *See* Doc. 2 ("Application"). The Court found Plaintiff's Application to be deficient because Plaintiff did not properly answer the questions in the Application. *See* Order to Cure Deficiency, Doc. 5, filed January 27, 2016. The Court granted Plaintiff fourteen (14) days to either file an amended application or pay the \$400.00 fee to initiate this case, and notified Plaintiff that failure to timely file an amended application or pay the \$400.00 fee may result in dismissal of this case without prejudice. Plaintiff did not comply with the Court's Order to timely file an amended application or pay the \$400.00 fee.

The Court will, therefore, deny Plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form), Doc. 2, filed January 26, 2016. *See Lister v. Dep't of Treasury*, 408 F.3d 1309, 1313 (10th Cir. 2005) (concluding "district court did not abuse its discretion in denying IFP status after [Plaintiff], having been specifically instructed on how to

establish indigent status, failed to fill out the proper forms or to otherwise provide the district court with the requisite information"). The Court will also dismiss this case without prejudice for failure to comply with the Court's Order to timely file an amended application or pay the \$400.00 fee.

IT IS ORDERED that Plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form), Doc. 2, filed January 26, 2016, is **DENIED**.

IT IS ALSO ORDERED that this case is **DISMISSED without prejudice**.



UNITED STATES DISTRICT JUDGE